



RIGHT TO INFORMATION AND GOOD GOVERNANCE: RELEVANCE AND IMPLICATION WITH RESPECT TO ANTI- TERRORISM LAWS

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Abstract

According to the Universal Declaration of Human rights (*hereinafter*, referred to as UDHR), the right to information and freedom of expression are fundamental human rights, one of the momentous occasions in the History of human rights was at the International conference on Human Rights held in Vienna, 1993, it marked a crucial moment in United Nation's policy in the field of human rights, where world leaders made concrete recommendations for straightening and harmonizing human rights.

The enactment of Anti-terrorism laws in domestic legislation is a necessary step to protect essential Human Rights, including the Fundamental Rights of citizens, on the other other hand, terrorism posses a greatest threat to national security and territorial integrity, government of India in particular has been grappling with questions of weather to deviate from implementing some basic human rights by curtailing some rights, thus vitiate the essential fabric of the Indian Constitution, the essential fundamental freedoms which are affected due to the imposition of Anti-Terrorism laws are primarily the Right to Freedom of Speech and Expression (*Article 19*), the Right to Life, and Liberty granted u/s *Article 21*.

Article 19(1) of the Indian constitution, states that, "every citizen has freedom of speech and information", Vienna Declaration called United Nations member states to pursue and strengthen there activities to make respect for human rights a priority objective on the same level as development and democracy and to work for the concurrent achievements of these objectives.

In this era where insurgence, terrorism, and escalation in the use of social media to spread messages of hate and violent crime, surveillance is a top priority of government's national security agenda, the aforesaid has prompted heavy-handedness from the government by shutting down the internet as a way of curbing the spread of violence, this growing trend is resulting in massive human rights violations such as, shutting down on media houses, blocking social media cites and arbitrary arrests orchestrated by law enforcement agencies.

The paper explores three main areas of concern:

1. Government of India calling on social media to take down harmful content from their social platforms,
 2. Social media firms calling on Governments around the world to regulate the media using domestic laws,
 3. Importance of upholding Citizen's right to information as a fundamental human right by the government.
- Lastly, the paper seeks to highlight the negative effect of social media and the threat it possesses to national security if left unregulated.

Keywords: Right To Information, Media Freedom, Human Rights Abuse

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1. Introduction

The importance of the media in the promotion of Human rights and good governance cannot be over-emphasized, dissemination of information to remote and dangerous places like war zones would have been unattainable without the media, the recent increase in technological advancements, and the rise in the use of social media has changed the dimension through which information is being disseminated, this development has significantly improved communication among people within a short period. However, the internet and the media, in general, are being used as a conduit to spread harmful content, international crimes, hate speech, violent extremism, disinformation, etc.

States are custodians of Human rights and have the responsibility of ensuring everyone enjoys the right to information which is a Human right as enshrined in the bill of rights in most national constitutions around the world but are finding it increasingly difficult to regulate the internet considering the pace at which technology is moving.¹² The foregoing has brought debates among world leaders and human rights advocates with regards to how best to truckle the situation between the right to information and security concerns.

Since the Arab spring began in 2010, states have shut down the media 400 times in 40 Countries Human rights advocates have argued that shutting down the media increases human rights abuse because it deprives people of accessing impartial news and knowing the true extent of the violence, commentators have argued that media cracking down results in the increase in violence. This view has been shared by recent a study which suggests that there is a rampant increase in Human rights abuses during government media shutdown.³

The state's role is to be more democratic and transparent to its citizens if they are to counter

disinformation from internet sources, independent media is also very key if this fight is to be own, the nature of crimes being perpetrated through the internet does fall within the armpits of global terrorism database,⁴ in most cases its spread across national borders, addressing the problem which is international at a state level is like curing the symptoms but the real disease remains.

Some countries are slowly realizing how widespread the problem is and the threat it poses to national security, the meeting was called at the British House of Commons to discuss issues surrounding disinformation, fake news, electoral interference, and data misuse.⁵ The idea behind meeting good but it would have carried more weight if it was held under the auspices of the UN general assembly with all stakeholders, not just singling out Facebook. International law must take a center stage because abuse of the media is a global security threat.

2. Freedom to information

According to UNESCO freedom is information can be defined as a right to access information held by public bodies,⁶ It's an important part of fundamental rights of freedom of expression as recognized by resolution 59 of the UN General Assembly adopted in 1946.⁷ Even by article 19 of the Universal Declaration on Human rights 1946.⁸

Freedom of information (FOI) holds that no information which is in the public interest can be withheld by the people entrusted with authority either by Governments or parastatals. This information must be accessed free or at an affordable price. Governments around the world tend to hide important information which concerns the public for various reasons. The FOI is necessary to monitor government activities and to keep them in check by the citizens. Globally over

¹ Nathan Shea (2019), *understanding violent extremism, massaging and recruiting strategy on social media in the Philippines*. The Asia foundation.

² Woody Harington (2018), *the new Radicalization of the internet*. Editorial board, New York Times

³ Jan Rydzak (2019), *Shutting down social media does not reduce violence, but rather fuels it*, Stanford university

⁴ *Global terrorism database* (2017) University of Maryland

⁵ Toby Melville (2018), *International law makers seek global regulations for social media*, Reuters

⁶ UNESCO (2019), *freedom of information, Communication and information*. UNESCO publications

⁷ United Nations general assembly resolutions, 1st session, 1946, available at www.un.org/documents, viewed on 20/06/19

⁸ Article 19, Universal Declaration on Human Rights, 1946

100 countries have implemented the FOI.⁹ The private sector is mostly included but has no legal obligation to disclose information to the public. It's worth pointing out that any member of society can access information without giving the reasons or where they'll take it, the only restriction to FOI is that the information requested doesn't fall under information under Data protection laws.

3. Freedom of expression

Business Dictionary, defines freedom of expression as expressing one's beliefs, ideas, or opinion freely through speech, writing, and other different types of communication about various issues without government censorship,¹⁰ however, whereas not deliberately hunt hurt to others' character and/or name by false or dishonest statements, freedom of the press may be half freedom of expression.

Freedom of expression may even be a development that accords members of the public the liberty to articulate their opinions and ideas without concern of come, censorship, or legal sanctions. like FOI it's placed along recognized as somebody's Right in Article 19, of the Universal Declaration in Human Rights.

Freedom of expression has boundaries and can't be absolute, limitations are set dependent on states and can be legal, excusable, for security reasons, or meant to discourage people from offending others through speech.

FOE is known to be important in good governance and democracy, which implies that individuals have to be compelled to dialogue regardless of differences in opinions, recent violence and fighting around the world has seen a rise in governments struggled to contain the abuse of freedom of expression and using to as a tool of hate through social media, this has prompted states resorting to censorship by blocking some social media sites, the aforesaid can bring about many questions as what is the right approach to curb abuse of social media, on Liberty (1959) John Stuart Mill argued that," there got to be limits of personal liberty of affirmation and discussing as a matter of moral conviction. These problems unit shared by Nielsen administrative body "said that interventions that unit meant to curtail the terrible events (Sri Lanka bombing 2019) usually times

provides a Political defend a further general to undertake to curtail people's access to information so the pliability to specific themselves"¹¹.

4. Good governance

The responsible conduct of public affairs and management of public resources, in short, good governance is a process of measuring how public institution conducts public affairs and manage public resources. Incorporating good governance with Human Rights, one cannot substitute good governance for anything, it's an ingredient of a democratic state if the Government is serious about ensuring that it delivers and respects human rights, it must ensure that good governance comes on top of the agenda.

5. Protection of human rights by the media

The media plays a very important role when it comes to human rights protections, the media reports abuses and give the voice to the people who are at the receiving end of human rights abuses, sometimes times the media their works by risking their lives, some are serving life sentences just for doing their jobs,¹²

The job of the media is to educate and inform the public, they're middle-men interpreting and simplifying in to lay man's language what people in someone meant and the other way round, this puts them in a vulnerable position and being accused of taking sides, which make their job dangerous.

Either way one looks at the media, we are conversant on abuse to human rights in conflicts zones and other parts of the world because the media, an ordinary person cannot go to war zones just to tell a story but we have brave journalists who go there, ghats why see people involved in genocide and other crimes being persecuted.

6. suppression of the media

As earlier alluded, governments more often cramp down on freelance media in an endeavor to scare and silence dissident voices or scrutiny from people they perceive as enemies, Journalists become an easy target to persecute.

Fake news on the other hand has contaminated the minds of unsuspecting members of the public in 2018, in India, information was circulated through

⁹ Access info Europe (2016) *Statement by the European RTI community o the world's first official access to information day*, Access info publications. Madrid. Italy

¹⁰ Cambridge English campus, freedom of expression, Cambridge dictionary (2020)

¹¹ John Stuart mill, *on social freedom*. Stanford encyclopedia of philosophy, (1907)

¹² Lios Berkett, *open session on media: journalists increasingly targeted at Los Angeles protests*. The guardian, (2021)

social media and incited voters to arise against the minority and to use violence. The cracking down of the media was worse in African and Asian countries, however, data indicates that this problem of cramping down of the media exists in all parts of the world. Surveillance and gathering of personal data by governments' security wings in the name of security have increased lately, people's rights to privacy are compromised under the guise of security measures.

The number of people with access to information has gone up, so is the number of countries which are cramping down media freedom in the last seven years, the report on media freedom found that among the last twelve months twenty-eight countries were involved in violence and intimidation of the journalists which has seen the U.S government impose sanctions on what voters posts on-line and deliberately targeting journalists, activists have experienced harassments and even deaths.¹³

7. Abuse of media and Limits to media freedom

As earlier alluded to, Media ought to communicate with the governments, NGOs, and human rights activists and collectively the final public the essential discourse of human rights and collectively the violations. a paradigm shift is needed to appear at media communication as community interaction instead of mass communication. Such a shift would then justify the sacred role that media has been spoken as upon to play. If the media doesn't take up the role of facultative protection of human rights, then the government will become accustomed violate of human rights.

The people who watch tv or surf the web do take whatever they see or watch as the ultimate truth, politicians with sick motives have taken advantage of the media coverage by brainwashing the unsuspecting public to advance the political gains.

This is what happened During the Rwandan genocide when over 1000 Tutsi people were massacred in just 100 days in 1994. It all started with a rumor and broadcasted on the national radio station¹⁴,

Very few people verify what they see on TV and social media the problem is more profound in rural areas where illiteracy levels are very high people

are easily manipulated and fake lies, some people have ended up committing suicide because of online abuse, others are being blackmailed, recruitment of terrorists, child pornography and trafficking. Criminals have constantly devised new schemes aimed at defrauding people and institutions, policing every activity that takes place on the internet is impossible, is the responsibility not only of governments but of all stakeholders involved including major social media firms to regulate what people post or read online, of course having in mind the human rights. with media becoming more into business, and profits oriented they're more concerned and prioritizing audience, therefore its government to let the media self-regulate and comes in one the monitoring aspect.

8. Protecting human rights during terror

Discussions relating to counter-terrorism laws are oftentimes depicted as a contest between defending human rights during and abuse of individual freedoms. It's the responsibility of the government to keep its citizens, it's also a responsibility of the government to refrain from abusing human rights at all times.

The government takes extreme measures to ensure that flashes out terror activities, this results in infringing on the rights of citizens, unlawful detentions, shutting down the media by the soldiers and the police, Governments ought to devise measures and counter-terrorism laws with human rights in mind in their Domestic counter-terror security to ensure equity and balance in the execution of the same¹⁵.

These laws would be helping governments around the world know the limits and the importance of respecting human rights and holding to account those who deliberately infringed the same guidelines.

9. Adjusting human rights and national security in India

India has its share of terrorism both direct and indirectly, since its independence India has been at the receiving end of refugees fleeing wars this bring with their security concerns, countless bombings, according to the Home Ministry, India

¹³ UNESCO, *World trends reports in freedom of expression and media development global report (2018)*,

¹⁴ Outreach programme on the 1994 genocide against the Tutsi in Rwanda and the United Nations, 2021

¹⁵ UNESCO, *criteria for the balancing of human rights and the combating of terrorism (report of the UN high commissioner for Human rights and follow up on the world conference on human rights)* (2002)

is at greater risk than its neighbors¹⁶, understandably so, there has been heavy-handedness from authorities and unlawful arrests of citizens, internet shutdowns has also been used to clampdown on which earned India a title of being world's worst in internet shutdown¹⁷. Article 22, of the Indian constitution, sets out the right to arrest and offered to protect against unlawful detention¹⁸, armed special powers give authority to soldiers to place surveillance, capture, detain and ability to kill if they during a disturbance, all these are necessary security measures but Incorporating human rights guidelines into counter-security measures, is not a daunting task even though, there is a misconception that international human rights laws are firm, vague standards that work against the government's endeavors to adequately deal with the threat.

This thought human rights are contradictory to national security neglects to grasp the facts that international human rights law was framed in the aftermath of world wars and presently works as a mediator between security interests and rights that are seen as essential to being human.

It's of the view that human rights demands must be adjusted against the need to incorporate security measures. for example, article 12 of the ICCPR talks about not restricting anyone from moving in and out of the country unless by law or national security¹⁹.

In some special circumstances, international rights law allows defensive measures to be taken by states however, the same measures must be proportionate to the security threat, World Health Organization acknowledged the Human rights and equal opportunity commission (HREOCs) accommodation, that counter-terrorism laws ought to be proportionate to the aim of achieving national security²⁰.

Article 4 of the ICCPR likewise holds that human rights are also legally compromised by States when the country is experiencing security tension, State with a history of use of force does not seem to rely on Article 4. some rights like the right to life or right not to be subjected to any form of torture or any human or degrading behavior cannot be suspended in any conditions. The Article grants suspension of some human rights due to security

reasons like the right to freedom and freedom of assembly²¹.

In 2004 the House of Lords in Australia acknowledged that the possibility of use of force might amount to a national security emergency. In any case, it likewise underscored the measures taken by a region state in criticism of its commitments under the laws need to not go past what is strictly required by the exigencies of the circumstance.

The significance of the national response to terrorist attacks has been a source of concern at both national and international levels. The National Intelligence Agencies ought to constitute a team deliberately dedicated to dealing with the aftermath of the attack, enough finances of general security mechanism ought to be secure, this might guarantee speedy reaction to terror-related attacks. Discussions and talks as to what and how it happened, can help to do more to secure laps in security to prevent future attacks from happening. This was seen after the 9/11 attacks; the US governments did not just rebuild the world trade center to its former glory but they ensured that they put in place better security measures.

2.1. Suggestions

Countries are difficult to govern, with people from different backgrounds, one cannot come up with a policy or order without infringing on the rights of a certain group of people or religion, the media in this regard plays a very important to disseminating the information in a manner that people will understand, it's, therefore, fair to state people get reliable information free from interference from government and people from authority. Governments must allow media houses and companies to regulate themselves.

As earlier noted, in times of terrorism there's a need for governments to frame anti-terrorism laws in conformity with international norms, in as far as we appreciate that security threats differ per country and the, therefore, the approach to tackle it must be different, there is a need to observe and learn from other countries which have been in such situation.

There is would like for freelance media, that is free from political interference further notably state media as a result of it covers the tiniest amount in

¹⁶ *Global terrorism index report*, Sydney institute for economics and peace (2019)

¹⁷ Chakravarti .A, *India saw the highest number of internet shutdowns in the world in 2020*, India today, 4th march, 2020

¹⁸ Art 22, Indian constitution

Eur. Chem. Bull. 2023, 12(Special Issue 10), 489 –495

¹⁹ Article 12, International convention on civil and political rights

²⁰ *Comments of the -UN, treat database*, available at www.tbinternet.ohchr.org, last visited on 15/02/22

²¹ Article 4, ICCPR

society, those people that unit of measure unfortunate financially and don't have access to various media a touch just like the on-line,

Another suggestion value considering is increasing in coverage of minorities, most of these people are cut off from the rest of the society and live in remote areas and rarely have access to news, and hardly understand human rights.

Lastly, the government needs to encourage transparency and allow decadent voices to provide checks and balances which is crucial to democracy, as opposed to shutting down media houses giving the said people platform.

2.2. Conclusion

The paper discussed the importance of having a free and fair media and respecting Human rights, the paper proceeded by incorporating observing human rights in face of terrorism because this is where most of the human rights abuses occur.

As earlier categorical, the media plays an awfully necessary role in the promotion and protection of human rights and its defenders by providing information on the Universal Human Rights Declarations, news on violations committed against human rights, and nurturing public support for human rights activities and constitutional safeguards. Initiatives to strengthen the role of the media throughout this regard may be taken by media organizations and fully completely different non-governmental organizations and would possibly involve human rights securing improved and regular access to information on human rights issues.

Unfortunately, methodology right Extremists, harmful contents, world coercion, hate speech, human trafficking, to say however kind of have additionally found their approach through the media and have taken advantage of the unregulated internet to spread their ideologies, national and international security is at a lower place threat.

The media has been at the center of major controversies of late, allowing media houses to self-regulate is very cardinal to ensure the independence of the media, If left unregulated or within the hands of states to control the world can witness gross human rights abuses at the hands of authoritarian governments or those in authority. Private media organizations don't serve public interest however do exist to form profits, as earlier states, governments have a tendency of abusing human rights thence permitting them to control the internet and the media can do more harm than good to the advancement of human rights, it's safe to conclude that the media monitors the operations of

the government by advising and reporting abuses, in return government monitors the media's operation by ensuring that they stick to their code of conduct.

Lastly, States must protect their citizens, therefore it must do all they can to ensure that the citizens feel and live safely, secondly, human rights are very cardinal to the lives of citizens so knowing where to draw a line between respecting rights to information and national security is of paramount importance, the media role reasonability is to highlight the human rights abuses to the relevant authorities thus as that the perpetrators of such vices are held responsible.

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